

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 727 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JANTA KALYAN RACHNATMAK TRUST

Versus

STATE OF GUJARAT

Appearance:

Mr Harin Raval for Mr P M Raval, Advocate for Petitioners

Ms.Harsha Devani, AGP for respondent No.1

Mr M P Prajapati for Mr MC Bhatt, Advocate for respondent No.2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 22/03/96

ORAL JUDGMENT

Petitioner-Trust applied for permission to start a Secondary School at village Jamniya, Taluka Valod, which is a backward area and majority of the inhabitants are Adivasis, Harijans and such other communities. His application was rejected by the respondent No.2-Gujarat Secondary Education Board. Petitioner preferred an appeal to the State Government which was rejected by

order dated 19.12.1982. The petitioner's application was rejected mainly on the ground that they do not have sufficient school accommodation and secondly that there is no need of a school in that area. The third reason given is that the population of the area was less than 3000.

2. I have heard Mr Harin Raval, learned Advocate appearing for the petitioner. He submits that the State Government has committed an error in not appreciating the correct situation with respect to the accommodation. He has tried to satisfy this Court that there is sufficient accommodation for the School. In this regard, necessary averments were also made in the petition. So far as the need of establishing a secondary school in that area is concerned, Mr Raval submits that there is no school in the vicinity within a radius of 10 kms. He submits that students of 8th standard onwards have to go to school at a distance of 10 km. With respect to the population, he submits that a correct figure has not been taken. Above all, he submits that this Special Civil Application was admitted and Rule was issued almost 13 years back i.e. on 25.3.1983. During this period, the population has tremendously increased and there is dire need of a Secondary School in the area.

3. Considering the facts of the case and the fact that the respondent has not considered the question of accommodation and also the necessity of a secondary school in the area in its right perspective, the impugned order 19.10.1982 passed by the State Government deserves to be set aside.

4. In view of the aforesaid, this Special Civil Application is allowed. Order dated 19.19.1982 passed by the State Government is quashed and set aside. Respondent-State Government is directed to consider the matter afresh and pass an appropriate order on the appeal filed by the petitioner. It will be open for the petitioner to place fresh materials before the appellate authority. The respondent shall decide the appeal within a period of two months from today.

Rule made absolute to the aforesaid extent.
Direct Service is permitted.